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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

In re ROBERT P, a Person Coming Under
the Juvenile Court Law.

HUMBOLDT COUNTY DEPARTMENT
OF SOCIAL SERVICES,

Plaintiff and Respondent,

v.

GWENDOLYN P.,

Defendant and Appellant.

A094183, A095049

(Humboldt County
Super. Ct. No. JV00316)

In this consolidated appeal, Gwendolyn P. seeks to appeal from jurisdictional and disposition orders concerning her son, Robert P. We will dismiss the appeal, finding that Gwendolyn is not a party aggrieved by the orders and therefore lacks standing to appeal from them.

Background

In January or February 2000, Gwendolyn, who resided in Colorado, sent Robert to live with Dennis and Liza Gagnon, his aunt and uncle. In March 2000, 17-year-old Robert filed a petition seeking to have the Gagnons appointed as his guardians, requesting that they be responsible for his temporary care, maintenance and support. In support of his petition Robert alleged that his father (actually his step-father) was deceased, that Gwendolyn had left him alone for days at a time, that she had attempted suicide four times, and that she had been committed to mental facilities. Gwendolyn at

first opposed the petition, but later agreed to the guardianship, and the court granted the petition.

On October 18, 2000, Robert's attorney (who had represented him in the guardianship proceedings) filed an application to commence juvenile court proceedings, seeking, in part, to have Robert undergo a comprehensive psychiatric or psychological evaluation. The application reported that Robert had engaged in disturbing behavior, including bringing a stun gun to class and threatening suicide. Robert's therapist was concerned about his mental health. His guardians also were concerned about Robert's mental health, and were concerned about the safety of other children in their home. Robert was placed by authorities in a foster home, but approximately two weeks later, the foster parents served a notice requesting his removal, citing his emotional disturbance and concerns about the safety of another child in their home. On September 27, 2000, Robert was placed in a therapeutic foster home. On October 10, 2000, he engaged in an act of self-mutilation. Six days later he ran away from the foster home, ultimately running down the middle of a busy street in an attempt to elude police. Robert was returned to the therapeutic foster home, and acknowledged a need for a psychological/psychiatric evaluation.

On November 15, 2000, the Department of Social Services filed a Welfare and Institutions Code section 300 petition, alleging that Robert was suffering, or was at risk of suffering serious emotional damage. The petition essentially repeated the allegations of Robert's attorney, and further alleged that Robert's therapist had confirmed that he had suicidal tendencies and possible homicidal tendencies. A psychologist opined that Robert might have severe attachment issues and might have inherited a predisposition for significant mental health issues such as major depression and psychosis. The petition further alleged that Robert had no parent or guardian capable of providing appropriate care, reporting that the Gagnons had been appointed to be his guardians and that the guardianship had been disrupted.¹

¹ The petition originally alleged that the guardianship had failed, but later was amended to allege only that it had been disrupted.

A jurisdictional hearing was held on February 23, 2001. The Gagnons, as Robert's guardians, submitted to jurisdiction. Robert's attorney also submitted to jurisdiction, and the court then ruled that it had jurisdiction over Robert. The dispositional hearing was held on March 23, 2001. The Department submitted a report recommending, among other things, that Robert be placed in a foster home and that reunification services be provided to the Gagnons. The Gagnons, and Robert through his attorney, submitted on the recommendations of the Department, and the court, after reading the report and taking their submissions, adopted the Department's recommendations.

Throughout the proceedings, both the Department and Robert's attorney took the position that Gwendolyn had no standing to object to the proceedings. The court apparently agreed with this position, but also permitted Gwendolyn to file responsive documents and to appear through court-appointed counsel.

In appealing from the jurisdictional and dispositional orders, Gwendolyn complains that the court improperly ruled that she lacked standing in the matter, that this ruling violated her due process rights and that the jurisdictional and dispositional orders were improper.

Discussion

As a general rule, a parent is entitled to appeal from judgments or orders entered in juvenile dependency matters. (Cal. Rules of Court, rule 1435(b); *In re Carissa G.* (1999) 76 Cal.App.4th 731, 734.) Where a ruling has no effect on a party's rights, however, that party, whether or not a parent, is not a "party aggrieved," and therefore lacks standing to challenge that ruling. (*In re Crystal J.* (2001) 92 Cal.App.4th 186, 189; *In re Frank L.* (2000) 81 Cal.App.4th 700, 703.) To be aggrieved, a party must have a legally cognizable immediate and substantial interest that is injuriously affected by the court's decision. A nominal interest or remote consequence of the ruling does not satisfy this requirement. (*In re Carissa G.*, *supra*, 76 Cal.App.4th at p. 734.)

It follows that a parent, appealing from a juvenile court order, lacks standing to assert the rights of some other person who has not appealed (e.g., *In re Crystal J.*, *supra*,

92 Cal.App.4th 186: minor lacks standing to challenge ruling denying de facto parent status to relatives; *In re Gary P.* (1995) 40 Cal.App.4th 875: mother not entitled to object to severance of grandmother's ties with children; *In re Vanessa Z.* (1994) 23 Cal.App.4th 258: father not entitled to challenge order denying de facto parent status to relatives). It also has been recognized that a parent whose custody rights were terminated in earlier proceedings, is not a party aggrieved by an order concerning the other parent's custodial rights. (*In re Tomi C.* (1990) 218 Cal.App.3d 694, 698.)

“When the court appoints a nonparent as the guardian of the person of a child, the authority of the parent ceases. (Fam. Code, § 7505.) It is the guardian, not the parent, who has the care, custody, and control of the child. (Prob. Code, §§ 2350, 2351.)” (*Guardianship of Zachary H.* (1999) 73 Cal.App.4th 51, 61.) In the present case, after the Gagnons became Robert's guardians, and therefore were given custody over him, Gwendolyn had no right of control or custody that could be affected by the juvenile court proceedings. In essence, by finding it had jurisdiction, the court became involved in the relationship between Robert and his guardians, and its dispositional order affected the custody rights of the guardians. It made no order whatsoever involving Gwendolyn's parental rights, and, as Gwendolyn had no custody relationship with Robert, and as the court's orders had no impact on the relationship that she did have with her son, she simply was and is not a party aggrieved by those orders.

Although it is true, as Gwendolyn points out, that the creation of a guardianship under the Probate Code requires a lesser standard than does one created under the juvenile dependency laws, we do not see that this difference means that Gwendolyn has been unlawfully deprived of her parental rights. She still has those rights, and there is no current threat that they will be terminated.

We emphasize that Gwendolyn's parental rights have not been terminated. If she wishes to reassert those rights, she may seek to do so, by means of a petition to terminate the guardianship. (Prob. Code, § 1601.) Had she taken that step before the jurisdictional and dispositional orders, and had she thereby obtained a reinstatement of her right to custody and control of Robert, she would have been a party aggrieved by those orders,

and would have been entitled to appeal from them. Even now, a successful application to terminate the guardianship will result in a change of circumstances, entitling Gwendolyn to seek a modification of the dispositional order under Welfare and Institutions Code section 388. The courts orders, therefore, have not foreclosed Gwendolyn from attempting to regain custody of Robert, or at least from becoming involved in the juvenile court proceedings.

We find that Gwendolyn has shown no legally cognizable immediate and substantial interest that was injuriously affected by the juvenile court's orders, that she is not a party aggrieved, and therefore that she lacks standing in this appeal.

The appeal is dismissed.

Stein, Acting P.J.

We concur:

Swager, J.

Marchiano, J.